

July 30, 2013

Zoning Committee Public Hearing
Conditional Use Permit
Andrew and Jennifer Cator

This public hearing was called to order at 1:00 p.m. by Zoning Committee Chairman Bob Schneider. This hearing has been posted and published as is required by Wis. Stats and LdF Zoning Ordinance 93-4.

Introductions were made. Zoning Committee members present were: Chairman Bob Schneider, Janet Konopacki, Rob Milburn, Dan Shanahan and Colette Welch. Also representing the Town were Sue Ackland, Town Zoning Administrator and Teri Shaw, Zoning Committee Secretary.

Also present is Andrew and Jennifer Cator, Todd McEldowney, the Cator's attorney and Dee Dee Hall.

The Committee has viewed the property.

Chairman Bob Schneider: On today's agenda is the continuation of the CUP hearing held on July 11, 2013 in which the Lac du Flambeau Zoning Committee couldn't come to a decision. For that reason and because we have new people present today, I would like the Cator's to explain the proposed project to us again. At the last hearing there was some indication that the Cator's should delete some things from their proposed project because they were controversial, but at this point why don't you put them back in.

Ms. Cator indicated that these aspects were left in the current CUP proposal.

At this point Mr. McEldowney introduced himself, stating that he represented the Cator's and went on to explain their proposal.

Mr. McEldowney: We are here today because of an application that was filed back in April of this year. We are anxious to do whatever the Committee determines needs to be done in order to get started on this project as soon as possible.

The name of this proposed business is: Bad Bart's Western Adventures. The idea is to have an outdoor recreational park for the family, to bring people, business and money into this area. It would include a wagon/sleigh ride, pony rides, a play area, a picnic area, a Western themed mining town with a mock robbery, just a relaxed, fun place, where people can bring their families. There will be a souvenir/snack shop and we are hoping to include a petting zoo. We are mindful that there are various different ordinances and statutes that we will have to comply with in order to do this and we are fully willing to cooperate with whatever the Zoning Committee would like us to do.

The first CUP application has put into detail what the proposed idea of what we would like to do, the operations that we would have. It goes into extensive detail including drawings of where the buildings, playground, pastures, picnic area, petting zoo and parking area will be located. The property is currently zoned recreational so therefore it is a type of use which would be allowed within the definition of recreational zoning. The actual business is subject to filing as a corporation which is on file with the state already. We are waiting for conformation. It is going to be an LLC. We have looked into liability insurance with the CSI agency located in Minocqua, but we can't obtain insurance until we get the CUP permit. There were questions/concerns raised at the last hearing and Ms. Cator has put together a booklet to address these.

Mr. McEldowney talked about the shared driveway/entrance between the Cator's and Zoromski's and it was determined that the Cator's have already obtained their access permit from the DOT.

Mr. McEldowney talked about the various fencing concerns that the Zoning Committee had at the prior hearing. It was determined that the small animals would be separated from the large ones. The entire animal area would be fenced in to protect the animals from predators and the public from the animals. The mining area will be fenced in to protect the public.

Mr. McEldowney talked about a sanitation plan for the pickup and removal of both animal waste and public garbage generated from daily activity. That the animal waste in the public areas would be removed daily, stored at the back of the property away from the public and removed from the property on an as needed basis. The cleaning in the public areas and restrooms will be done as needed throughout each day.

Mr. McEldowney talked about obtaining a retail food application and a Wisconsin's seller's permit that will be filled out and submitted by the Cator's at the appropriate time.

Mr. McEldowney went into detail on where the animals would be wintered. It was determined that all the animals would be wintered at the Cator's personal residence in Minocqua, which is zoned rural residential.

Mr. McEldowney stated that the Cator's had contacted the Wisconsin Department of Agriculture concerning the registration of pastured animals under the Animal Welfare Act and the application was already completed and ready to submit.

Mr. McEldowney went into detail about how the animals would be taken care of. The Cator's had already procured Mike Graper, a Veterinarian from Corner Stone Equine out of Rhinelander to administer the required vaccinations and health care for the animals to keep in compliance with all APHIS regulations and requirements.

Mr. McEldowney then asked the Zoning Committee if they had any questions at this point.

Rob Milburn asked about the waste proposal plan.

Discussion took place regarding the proposed waste disposal plan for both the public and the animals and its importance. It was determined that the animal waste in the public areas would be removed daily, stored at the back of the property, away from public access and removed from the property by the Cator's on an as needed basis. The cleaning of the public areas and restrooms will be done throughout each day as often as needed.

Chairman Bob Schneider stated that since the Zoning Committee didn't know what permits, registrations and/or legal requirements were needed for a business of this nature, he wanted to make a motion that the Cator's would have to obtain and abide by any and all permits, licenses, registrations and legal requirements required by any known and unknown entities to open and operate this proposed business.

Rob Milburn: I so move to accept this motion.

Chairman Bob Schneider: How do you vote?

Dan Shanahan: In favor.

Janet Konopacki: In favor.

Colette Welch: In favor.

At this time Jennifer Cator introduced a packet of information that she had put together to present to the Zoning Committee. This information had been requested by the Zoning Committee at the previous CUP hearing held on July 11, 2013. Copies were made and handed out to all the Committee members present.

Chairman Bob Schneider stated that the second issue the Committee was concerned about was about fencing to keep both the animals and public safe.

Discussion took place concerning the fencing around the mining area for public safety and fencing requirements in the pasture to keep the animals safe from predators. It was determined that the mining area would be fenced in using an at least four (4) foot high chain link style fence with a possible decorative wooden entrance. The large animals would be kept separate from the smaller ones and the large animals would be fenced in using appropriate livestock fencing to be determined by the Cator's. All of the animals would have three (3) sided shelters for protection. The small animals would be enclosed with a five (5) foot fence to be determined by the Cator's and if there were any future problems with predators the Cator's would take the appropriate measures to make the area more secure.

At this point Ms. Cator talked about a device offered through Jeffer's Equine Company called Night Guard that is used to deter predators. Discussion took place about this device.

Dan Shanahan asked if there had been any negative correspondence from the neighbors or public in general.

Teri Shaw stated that we hadn't gotten any correspondence at all regarding this proposed Adventure Park/Petting Zoo.

Dee Dee Hall who is in attendance was introduced and wished to state her concerns to the Committee. She asked what types of playground equipment would be used in the playground area? She stated that her main concern was about cars, mini bikes and ATV usage on the property.

Mr. Cator: We plan on having swing sets, buried tires for climbing on/through and various other forms of regular playground equipment for children to play on. No cars, ATVs, mini bikes or race track activity will go on.

Sue Ackland had a question that was brought up by Greg Harrold (Town Attorney) on whether there would be any outside speakers or music playing.

The Cator's responded that there will be no outside speakers or music, but they would like to have soft music playing in the snack/gift shop area.

Colette Welch asked about the parking and the DOT permit, what would happen if there were more than 100 proposed trips per day by patrons.

Ms. Cator: If that would happen we would re-apply for an updated DOT permit.

Discussion took place about the shared access between the Cator's and the Zoromski's. It was determined that there was a recorded easement agreement that was on file in Vilas County regarding the shared driveway and that the Cator's will take responsibility for the maintenance of the driveway.

Discussion took place about liability insurance. It was determined that the Cator's will have liability insurance through the CSI agency in Minocqua, as well as a signed waiver for every guest that participates in any of their activities. They will also have a copy of a State Statute regarding horses posted visible to the public and printed on the liability waiver that the public would be signing.

Discussion took place about the Standards Form questions and answers.

Chairman Bob Schneider asked the Zoning Committee if they had any further questions, concerns or comments regarding this proposed Adventure Park/Petting Zoo.

Hearing none, Chairman Bob Schneider stated the 5 conditions that needed to be met for this CUP permit to be approved. They are as follows:

1. The applicant must procure all of the necessary licenses, permits, registrations and follow all the State zoning codes that are required for a facility of this nature.

2. That there would be adequate fencing/shelter as stipulated at this hearing for the mining area and all of the animals.
3. The animal waste will be moved off the property as needed.
4. The Cator's must carry liability insurance at all times on the Adventure Park/Petting Zoo when it is opened to the public.
5. There will not be any outdoor speakers or music.

Chairman Bob Schneider asked if there were any further questions or discussion needed by the Board.

Discussion took place about the bathroom facility. That on the drawings provided the sizes and amounts were not up to State handicap code requirements. It was also noted that the handicap parking spaces were not large enough either. The Cator's noted this and will abide by the State Code requirements.

Chairman Bob Schneider: I will now ask for a motion to approve this permit with the five (5) conditions listed.

Rob Milburn: I make the motion to accept this CUP permits with the five (5) conditions as presented.

Janet Konopacki: I will second the motion.

Chairman Bob Schneider: How do you vote?

Dan Shanahan: In favor.

Jan Konopacki: In favor.

Rob Milburn: In favor.

Colette Welch: In favor.

Chairman Bob Schneider: The motion has been made and passed.

A motion was made by Bob Schneider and seconded by Janet Konopaki to adjourn at 1:45 pm. Motion carried.

Respectfully submitted,

Teri Shaw
Secretary Zoning Committee

THERE IS A TAPE RECORDING OF THIS PUBLIC HEARING ON FILE AT THE
TOWN OF LAC DU FLAMBEAU OFFICES.